Corporate Governance

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“Successful Companies do not do different things, but they do things differently.”

Abstract

Corporate governance is concerned about promoting corporate fairness, transparency, and accountability. Corporate governance refers to the set of systems, principles and processes by which a company is governed.

Corporate governance is not just about ethics and moral responsibility. It is fact, concerned with ensuring profitability, dividend growth, and shareholder value on a sustained basis. The disclosure norms as laid down under the corporate governance regulation are extremely critical in the current scenario of globalization and technological advancement. It is an emerging discipline and one in which little to date has been written especially from the perspective of developing and transition economies.

This paper analyses the corporate governance framework present in India, reviews the Indian setup and offer some suggestions and opinions regarding the same.

Keywords:

Corporate governance, corporate fairness, ethics and moral responsibility, shareholder value

Introduction

Corporate governance may be defined as a set of systems, processes, and principles which ensure that a company is governed in the best interest of all stakeholders. It is the system by which companies are directed and controlled. It is about promoting corporate fairness, transparency and accountability. In other words-

"Good Governance is perhaps the single most important factor in eradicating poverty and promoting development."

It endures:

- Adequate disclosures and effective decision making to achieve corporate objectives;
- Transparency in business transactions;
- Statutory and legal compliances;
- Protection of shareholder interest;
- Commitment to values and ethical conduct of business

Corporate Misgovernance in India- A fact file:

"Everybody knows what is the right thing, but very few do the right thing"

Despite a long corporate history the phrase 'corporate governance' remained unknown in India until 1993. It came to the fore due to a spate of corporate scandals and fraudulent practices during the first flush of economic liberalization.

- The first was a major security cam namely Harshad Mehta Scam
- The second involved vanishing companies of 1993-94. Number of vanishing companies 142 and money involved was Rs. 66861 Crores.
- The third was large scale fraudulent and unfair trade practices by the capital market participants and companies

  Investors were loaded with papers which is neither liquid nor is worthy of returns as it pays no dividend

  More than half of the 5313 companies this raised resources from the capital markets through public issues before 1996, had not paid any dividend since 1996.

- As of March 31, 2010, the gross NPAs of scheduled commercial banks amounted to Rs. 81813 Crores, which is 2.50 percent of their gross advances.
- According to the Transparency International Corruption Perception Index 2010-11, India ranks at 84 out of 180 Countries. Today there is a vicious cycle of corruption and this has to be replaced by a virtuous cycle of integrity.
- The Global Competitiveness Report, 2010 Published by the World Economic Forum, ranks India at 51 sit in the study of 132 countries. (Switzerland 1, Indonesia 44, Taiwan 13). Our low ranking should provoke deep introspection. Corporate governance has to be viewed as a key contributor to the enhancement in our competitive standing.

Need for Corporate Governance:

Three fundamental forces- liberalization, globalization and technology will drive the

Indian economy in the post millennium era. Our success in the future will be entirely dependent upon our ability to identify the opportunities, synergies our strengths and skills successfully and turn the challenges into opportunities. In the context of fast changing corporate and socioeconomic landscapes, fast paced technological change and the emergence of the multilateral trading system, the following factors underscore the need for good corporate governance:

- Globalization, privatization, deregulation, etc.
- Advancements in information technology and E-Commerce
- Strategic alliances, mergers and acquisitions
- Intellectual Property Rights
- Social Responsibility, social audit, and societal concerns
- Business and professional ethics Sustainable development

Evolution of Corporate Governance in India

Since the liberalization and free economy, i.e. deregulation, privatization have made corporate governance very important. Cases of frauds, malpractices can render the capital market reforms desultory. Independent and effective corporate reforms are, therefore, necessary in order to restore the credibility of capital market and to facilitate the flow of investment finances of the firms. There are various reforms which were channeled through a number of different paths with both Security and Exchange Board of India (SEBI) and Ministry of Corporate Affairs, Government of India (MCA) playing important roles.

Efforts made by SEBI on Corporate Governance regarding List of Shares at Stock Exchange:

After liberalization serious efforts have been made towards overhauling the system with SEBI formulating the Clause 49 of the Listing Agreements dealing with corporate governance. Clause 49 of Listing Agreement to the Indian stock exchanges comes into effect from 31 December 2005. It has been formulated for the improvement of corporate governance in all listed companies.

Clause 49 of Listing agreements, as currently in effect includes the following key requirements:

- **Board Independence**: Boards of directors of listed companies must have a minimum number of independent directors. Where the chairman is an executive or a promoter or related to a promoter or a senior official, then at least one-half the board should comprise independent directors. In other cases, independent directors should constitute at least one third of the board size.
- **Audit Committees**: Listed companies must have audit committees of the board with the minimum of three directors, two-third of whom must be independent. In addition, the roles and responsibilities of the audit committee are to be specified in detail.
- **Disclosure**: Listed companies must periodically make various disclosures regarding financial and other matters to ensure transparency.
- **CEO/CFO certification of internal Control**: The CEO and CFO of listed companies must

- Certify that the financial statements are fair and
- Accept responsibility for internal controls.

- **Annual Reports**: Annual Reports of listed companies must carry status reports about compliance with corporate governance norms.

Review of Corporate Governance in India:

Indian companies have a long way to go before adhering to corporate governance best practices, as their performance is below-par on parameters like rotation of auditors, attendance of directors and board composition

According to an analysis of the top 100 companies that form part of the Nifty and Junior Nifty indices, 10% of these firms have board sizes of either more than 16 directors or less than seven directors. However, the Companies Act 2013 prescribes a minimum of three and maximum of 15 directors on the board of a company and permits firms to appoint more than 15 directors after passing a special resolution.

According to a report by In Govern Research services based on the proxy voting disclosures, 17 % of directors on an average of these 100 companies attend less than 75% of board meetings.

Average number of board meetings held by top 100 Indian Companies is seven.

It further said that 13% of companies taken into consideration were non-compliant with clause 49 of the " Listing Agreement" with less than 50 % independent directors on their board.

The report said that 22% of Independent Directors have served on the board for more than nine years. Corporate India has a long way to go before adhering to corporate governance best practices. The data stand out with even top companies not treating corporate governance practices in the right spirit. Institutional investors and regulators should demand better practices from promoters and company management. The new Companies Act 2013 and initiatives from SEBI to improve corporate governance are steps in the right direction. However, a lot more needs to be done for all the companies to come up to global standards.

Suggestions and Opinions:

Corporations are the prominent players in the global markets. They are mainly responsible for generating the majority of economic activities in the world, ranging from goods and services to capital and resources. The essence of corporate governance is in promoting and maintaining integrity, transparency and accountability in the management of the company as well as the manifestation of the values, principles and policies of a corporation.

Many efforts are being made, both in the centre and state level, to promote adoption of good corporate governance practices, which are the integral element for making and managing business. However, the concepts and principles of good governance are still not clearly known to the Indian business set up.

Hence, there is a greater need to increase awareness among entrepreneurs about the various aspects of corporate governance. There are some of the area that needs special attention, namely:

- The quality of audit, which is at the root of effective corporate governance;
- Role of Board of Directors as well as accountability of the CEOs and CFOs;
- Quality and effectiveness of the legal, administrative and regulatory framework; etc.

That is, it is necessary to provide the corporate desired level of comfort in compliance with the code, principles and requirements of corporate governance; as well as provide relevant information to all stakeholders regarding the performance, policies and procedures of the company in the transparent manner. There should be proper financial and non-financial disclosures by the companies, such as, about remuneration package, financial reporting, auditing, internal controls, etc.

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